

REMARKS/ARGUMENTS

This Response is promptly filed to place the above-referenced case in condition for immediate allowance.

The status of the claims is as follows:

Cancelled: None;

Amended: None;

Added: None; and

Currently outstanding: 1-13, 14-21.

No new matter has been added to the application.

From the outstanding Office action, the Examiner considered Claims 14 – 21 to be rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over Claims 5 –12 of U.S. Patent No. 6,383,129. In discussing this rejection with the Examiner, a telephonic conference conducted on or about September 15, 2004, led to the Examiner's indication that this double patenting rejection was subject to typographical error in that it was not just Claims 14 – 21 which had been rejected, but actually all the claims, Claim 1 – 21, which had been rejected for double patenting. The Examiner's cooperation and attention to this matter via telephone and conference is gratefully appreciated.

Additionally, the Examiner rejected a number of claims based on 35 U.S.C. § 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 5,451,199) in view of Chiu (U.S. Patent No. 5,989,178) either by themselves or further in view of additional other patents including Ito (U.S. Patent No. 5,055,189), Sakurada et al. (U.S. Patent No. 5,138,133), and Ardizzone (U.S. Patent No. 6,383,129).

As set forth in more detail below, it is believed that the Kim et al. '199 patent reference is not applicable to applicants' claims. Consequently, reconsideration is respectfully requested.

Applicants' claims set forth two independent claims, Claims 1 and 14. Both of these claims set forth elements that are not set forth in the Kim et al. '119 patent, or any of the other patents cited.

With respect to Claim 1, clause 2 requires a, "far-infrared radiation emitter adjacent said magnet, said far-infrared radiation emitter emitting far-infrared radiation at body temperature." (emphasis added).

Claim 14 requires, "bio-ceramic fibers providing a far-infrared radiation emitter, said bio-ceramic fibers adjacent said magnet and emitting far infrared radiation at body temperature." (emphasis added).

The "at body temperature" characteristic of the far-infrared radiation emitter of Claim 1 and the bio-ceramic fibers of Claim 14 distinguish these claims and their dependent claims from the references cited, particularly the Kim et al. '199 patent. Furthermore, the Kim et al. '199 patent does not disclose bio-ceramic fibers, further providing distinction for Claims 14 – 21 over the cited references.

With respect to the Kim et al. '199 patent, disclosure is made that the "far-infrared rays are produced from the motion energy of the composition of the plated itself which is composed of the self-radiating material and they are also produced by simple agitation (motion energy)." Column 2, Lines 35 – 38 (emphasis added).

As result, it is not body temperature or other thermal motivation that provides the basis for far-infrared radiation emission by the Kim et al. '199 patent.

As a result of the disparities in applicants' claims as they currently stand and the Kim et al. '199 patent, the Kim et al. reference does not provide sufficient disclosure in order to act as prior art to applicants' claims. The composition of the far-infrared ray generating plate in the Kim et al. '199 patent is not the same or sufficiently similar to that set forth in applicants' disclosure.

The Examiner has also cited a number of patents and publications as pertinent to the presently claimed invention. Since none of these have been relied upon as a reference against Applicants' claims, no further comment is deemed necessary.

In view of the above, the Examiner is respectfully requested to reconsider his position in view of the remarks made herein and the structural distinctions now set forth. The Examiner's rejections of the outstanding claims are believed to no longer apply. It is now believed that this application has been placed in condition for allowance, and such action is respectfully requested. Prompt and favorable action on the merits is earnestly solicited. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The statements made herein with respect to the disclosures in the cited references represent the present opinions of the undersigned attorney. In the event that the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective references providing the basis for a contrary view.

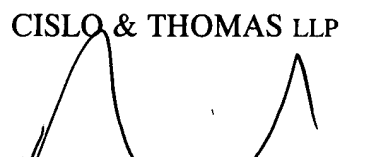
If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicants invite the Examiner to contact Applicants' representative at the number listed below.

With the above-referenced changes, it is believed that the application is in a condition for allowance; and Applicants respectfully request the Examiner to pass the application on to allowance. It is not believed that any additional fees are due; however, in the event any additional fees are due, the Examiner is authorized to charge Applicants' Attorney's Deposit Account No. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

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Enclosures

Acknowledgement Postcard
Terminal Disclaimer and fee

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